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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,898	10/15/2001	Rosaldo Fare	1011-342	3478

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EXAMINER

LEYSON, JOSEPH S

ART UNIT

PAPER NUMBER

1722

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/977,898

Applicant(s)

FARE, ROSALDO

Examiner

Joseph Leyson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 6-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-5, drawn to an apparatus, classified in class 425, subclass 72.2.

II. Claims 6-8, drawn to a method, classified in class 264, subclass 12.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process, such as a process for making non-polymeric material fibrils, or a process which does not control the flow of material from the inlet to the holes, or a process which supplies material with a different heat amount and a different driving power to the die.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by

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their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with James Costigan on 11 March 2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-5. Affirmation of this election must be made by applicant in replying to this Office action. Claims 6-8 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. The title and abstract should be amended to reflect the elected invention, i.e., apparatus only.

6. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The instant abstract should be rewritten in a SINGLE paragraph.

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7. Figures 1 and 2 should be designated by a legend such as -- Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

8. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 24. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The examiner suggests changing the rightmost "21" in fig. 3 to --24--.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 5 recites "said tree construction" whose metes and bounds is unclear because the "tree construction" is first mentioned in claim 2, but claim 5 is dependent upon claim 1. The examiner suggests making claim 5 dependent upon claim 2.

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Allen(-141).

Allen(-141) teaches a melt-blowing head, that corresponds to the instant melt-blowing head, the head including a polymeric material inlet channel 87, a melt-blowing die 18 including a plurality of holes 89 for extruding fibrils therefrom, and a channel arrangement for distributing the material from the inlet channel 87 to each hole 89. The channel arrangement includes a tree construction extending from the inlet channel 87 and having a plurality of tree braches 88, 85 each of which ends at a respective hole of the die. The channel arrangement includes

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(n) path arrangements for conveying the polymeric material from the respective inlet channel 87 to (n) holes 89 of the die 18, the path arrangements having a like size (see fig. 7).

13. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Allen et al.(-848).

Allen et al.(-848) teach a melt-blowing head, that corresponds to the instant melt-blowing head, the head including a polymeric material inlet channel 254, a melt-blowing die 200 including a plurality of holes (see fig. 16) for extruding fibrils therefrom, and a channel arrangement for distributing the material from the inlet channel 254 to each hole. The channel arrangement includes a tree construction extending from the inlet channel 254 and having a plurality of tree braches 250, 252, 212, 214, 216, 218, 220, 222 each of which ends at a respective hole of the die. The channel arrangement includes (n) path arrangements for conveying the polymeric material from the respective inlet channel 254 to (n) holes of the die 200, the path arrangements having a like size (see fig. 16).

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at

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the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Allen(-141) or Allen et al.(-848) and further in view of Wells(-336).

Allen(-141) and Allen et al.(-848) each discloses the apparatus substantially as claimed as mentioned above except for the channel arrangement as recited by the instant claim.

Wells(-336) discloses a channel arrangement for providing uniform flow distribution and pressures wherein at an end of each middle branch of the channel arrangement, the channel arrangement opens into two secondary side branches, having like shape and size, for supplying the material in a direction of a die.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the apparatus of either Allen(-141) or Allen et al.(-848) with the channel arrangement of Wells(-336) because such a modification would provide an art recognized alternative channel arrangement for providing uniform flow distribution and pressures.

16. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Allen(-141) or Allen et al.(-848) and further in view of Choi(-812).

Allen(-141) and Allen et al.(-848) each discloses the apparatus substantially as claimed as mentioned above except for three different inlets for supplying corresponding polymeric materials to corresponding delivery channel arrangements as recited by the instant claim.

Choi(-812) discloses a head including three different inlets 12 for supplying corresponding polymeric materials to corresponding delivery channel arrangements 11, 11' for making three different sets of fibrils.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the apparatus of either Allen(-141) or Allen et al.(-848) to include three different inlets for supplying corresponding polymeric materials to corresponding delivery channel arrangements as disclosed by Choi(-812) because such a modification would enable three different sets of fibrils to be made.

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pearson(-053), Raterman(-312), Loomans(-807) and Frey et al.(-655) are cited as of interest.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph

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Leyson whose telephone number is (703) 308-2647. The examiner can normally be reached on M-F(8:30-6:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*JP*

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March 17, 2003

*James P. Mackey*  
**JAMES P. MACKEY**  
**PRIMARY EXAMINER**

*3/19/03*